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SUBJECT: SENATE FINANCE COMMITTEE STAFFERS VISIT HONG KONG

REF: A. HONG KONG 00333
[1](#)B. 07 HONG KONG 00218

[1](#)1. (SBU) Summary: Eleven U.S. Senate Finance Committee staff members, led by International Trade Counsel Amber Cottle, visited Hong Kong February 18-20. Their visit focused on trade facilitation, trade security, and customs enforcement with Hong Kong Government (HKG) and private sector representatives. Local interlocutors voiced concerns over U.S. consumer product safety and customs legislation, particularly the lack of "transparency" and too-quick implementation; they cautioned about possible repercussions if trading partners viewed these as protectionist measures. HKG interlocutors sought U.S. Government (USG) direction on the future of the Secure Freight Initiative (detailed in Ref A). The American Chamber of Commerce in Hong Kong (AmCham) delivered a message to the StaffDel in support of free trade. The AmCham also noted that the current U. S. foreign income tax regulations impose a competitive disadvantage on Americans participating in the international labor market. On IPR, the HKG explained its reluctance to participate in the Anti-Counterfeiting Trade Agreement (ACTA), despite meeting its standards (Ref B). End Summary.

CPSIA: Lack of Transparency Equals Business Reluctance

[1](#)2. (SBU) Vivian Lau, Deputy Director General for the Hong Kong Trade and Industry Department (HKTID) raised concerns over the U.S. Consumer Product Safety Improvement Act (CPSIA) with the StaffDel. Lau indicated that Hong Kong/China garment makers and small-to-medium-size manufacturers, concerned with "ever-evolving" U.S. product safety rules and lack of transparency, have recently opted to decline orders from U.S. importers. The manufacturing trade seeks guarantees that U.S.-bound products will not be rejected as a result of new product safety laws. She cited the recent U.S. District Court of New York ruling that applied restrictions on phthalates content to all inventories, regardless of manufacturing date. Lau also explained the CPSIA requirements for "final product testing" make manufacturing of certain goods inefficient and unprofitable. As an example, Lau cited inputs that may go into producing a child's organic cotton cloth jacket. The law requires testing of the final item (i.e., the child's jacket) for which only the buttons may contain small traces of the restricted chemicals. This results in lab testing fees for a completed product that provide no more information than would testing of individual product components, she said. If components were targeted and tested separately, the lab testing fees and costs of goods could be reduced tremendously, she added. When the StaffDel informed Lau that the CPSIA only aligned U.S. legislation with European Union (EU) standards, Lau indicated rapid CPSIA implementation and uncertainty differentiated these regulations.

Expats Call for Continued Support for Free Trade

¶3. (SBU) The American Chamber of Commerce in Hong Kong (AmCham) called for continued USG support for free trade. On recent trade security initiatives (e.g. Container Security Initiative, Secure Freight Initiative, Security Filing 10 2, Customs-Trade Partnership Against Terrorism) and product safety rules, AmCham cautioned that the "draconian" interpretation of the rules and the lack of communication and transparency could be viewed by trading partners as protectionist measures. Trading partners could impose similar security and safety rulings to U.S. exports and disrupt trade flow. AmCham recognized that trade security and product safety "have important and noble goals," but one member remarked that "hastily implemented legislation seems to lack practicality and reason." In order for the industry to adjust, reasonable timing for implementation and clear interpretation of the rules is needed, AmCham stressed.

Foreign Income Tax: A Self-Imposed Competitive Disadvantage

¶4. (SBU) AmCham members raised concerns about the current U.S. tax burdens on Americans who work and reside abroad. As no other developed nation taxes the foreign-earned income of its citizens, this additional layer of cost and complexity is a disadvantage for American expatriates and U.S. companies, they said. To attract American employees to work overseas,

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corporations have to include "tax equalization agreements" in remuneration packages. Under these agreements, companies bear the U.S. income and Medicare tax burden for their American employees, raising the cost of U.S. labor. When these organizations contemplate cutting labor costs, U.S. workers are usually the first dismissed, given their disproportionate entitlements, the Chamber business representatives said. AmCham members noted how the current financial crisis has forced many U.S.-based companies operating abroad to hire cheaper non-American management. This further hurts U.S. exports because American managers tend to source items from familiar U.S. brands, while foreign managers will tend to source from their home country. Similarly, international schools that educate the U.S. expatriate community offspring have undergone large faculty turnovers. American teaching professionals are being replaced by "more affordable" non-Americans; U.S. teachers return home and compete in an already competitive domestic labor market. AmCham members stressed U.S. tax laws should be revised to eliminate the competitive disadvantage faced by American citizens working abroad.

Intellectual Property Rights (IPR) Protection

¶5. (SBU) The StaffDel met with officials from the Hong Kong Intellectual Property Department (IPD), HKG's policy and educational body on IPR, and with officers from Hong Kong Customs and Excise Department (HKCE) to discuss local IPR enforcement matters. While acknowledging challenges posed by low-level syndicates of counterfeit goods sellers, IPD Director Stephen Selby lauded successes by HKCE in combating IPR infringement. He explained this was the result of intelligence sharing among foreign and local law enforcement agencies and the private sector. Selby was specifically appreciative for training provided by the USG to local law enforcement. On the question of HKG's reluctance to join the Anti-Counterfeiting Trade Agreement (ACTA), Selby told StaffDel that ACTA is for the "big boys" while Hong Kong is only a small city. Note: Ref B previously reported Selby's concerns over possible mainland Chinese reaction to ACTA,

particularly if the trade agreement ever expanded to include Taiwan. At the time, the HKG asked to be kept informed of the progress of ACTA, but opted to delay entering into any formal discussions despite meeting ACTA standards. End note.

16. (SBU) The StaffDel did not have a chance to clear this cable.

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